

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 799****[OPTS-42084D; FRL-3387-8]****Commercial Hexane; Proposed
Definition of Test Substance and
Effective Date****AGENCY:** Environmental Protection
Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: EPA is proposing to amend the final test rule in 40 CFR 799.2155 on commercial hexane which was published in the *Federal Register* of February 5, 1988 (53 FR 3382). The rule was issued under section 4(a) of the Toxic Substance Control Act (TSCA). This document proposes to redefine the percentage of *n*-hexane in the test substance and to extend the deadlines for submission of notices of intent to test, exemption applications, and test results.

DATES: Submit written comments on or before June 27, 1988. If persons request an opportunity to submit oral comments by June 27, 1988, EPA will hold a public meeting on this proposed rule in Washington, DC. For further information on arranging to speak at the meeting, see Unit V of this preamble.

ADDRESS: Submit written comments, identified by the document control number (OPTS-42084D) in triplicate to: TSCA Public Docket Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Room NE-G004, 401 M Street SW., Washington, DC 20460. (202) 554-1404.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Acting Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Room EB-55, 401 M Street SW., Washington, DC 20460. (202) 554-1404.

SUPPLEMENTARY INFORMATION: The Agency proposes to amend the final rule on commercial hexane by changing the specification of the test substance and the effective date.

I. Background

EPA issued a final rule under TSCA section 4(a)(1)(B), published in the

Federal Register of February 5, 1988 (53 FR 3382) that established health effects testing requirements for commercial hexane. It specified that the test substance conform to ASTM D1836 specifications and contain no more than 40 liquid volume percent *n*-hexane and no less than 10 liquid volume percent methylcyclopentane (MCP). It also established the effective date of the rule as March 21, 1988.

On March 25, 1988 the American Petroleum Institute (API) notified EPA that the composition of *n*-hexane in the commercial hexane currently being manufactured did not meet the specifications of the test substance as promulgated (Ref. 1). On April 13, 1988, API (Ref. 3) requested that EPA modify the definition of the test substance and extend the reporting deadlines in the rule accordingly.

In the final rule, EPA stated that it wanted to test a commercial hexane that contained the smallest fraction of *n*-hexane so that the *n*-hexane would not mask the effects of MCP and other six carbon (C₆) isomers found in commercial hexane products. The Agency plans to retain this approach and is only proposing the revised definition because commercial hexanes are currently not being produced with a *n*-hexane composition low enough to meet the criteria EPA originally promulgated.

II. Proposed Test Substance Definition

Based on newly submitted confidential business information (CBI) on the *n*-hexane composition of currently available commercial hexane, EPA proposes to redefine the commercial hexane test substance as a mixture that contains at least 40 liquid volume percent but no more than 55 liquid volume percent *n*-hexane, and no less than 10 liquid volume percent MCP. According to API, the version of commercial hexane with the lowest percentage of *n*-hexane that is currently available in the market and that has potential for work place and consumer exposure contains about 55 liquid volume percent *n*-hexane (Ref. 1). From this new data and the CBI, the Agency has concluded that a range of between 51 to 55 percent *n*-hexane formulation now represents the minimum *n*-hexane content of a currently available commercial hexane product. Therefore, the change in the definition of the test substance requested by API is warranted.

III. Effective Date of the Rule

The effective date of the final rule (53 FR 3382) was March 21, 1988. The time required to issue this proposal, to allow for public comment, and to promulgate

the changes, if appropriate, will necessitate an extension of the dates for completion of testing (Ref. 2) and for other submission requirements specified in 40 CFR 790.45 which are calculated from the effective date of the rule. The EPA is proposing that the new effective date will be 44 days after publication of the final amendment. The Agency anticipates that the effective date would thus be moved a minimum of 3 months from March 21, 1988 to July 1988.

IV. Economic Analysis

A change in the test substance definition will not significantly alter the cost of testing. Thus, the economic analysis for the final test rule for commercial hexane is unchanged.

V. Public Meetings

If persons indicate to EPA that they wish to present oral comments on this proposed amendment to Agency officials who are directly responsible for developing the amendment and supporting analyses, EPA will hold a public meeting after the close of the public comment period in Washington, DC. Persons who wish to attend or to present comments at the meeting should call the TSCA Assistance Office (TAO): (202) 554-1404, by June 27, 1988. A meeting will not be held if members of the public do not indicate that they wish to make oral presentations. While the meeting will be open to the public, active participation will be limited to those persons who arrange to present comments and to designated EPA participants. Persons wishing to attend should call the TAO before making travel plans to verify whether a meeting will be held.

Should a meeting be held, the Agency would transcribe the meeting and include the written transcript in the rulemaking record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

VI. Rulemaking Record

EPA has established a record for this rulemaking (docket number OPTS-42084D). This record includes information considered by the EPA in developing this proposed amendment and appropriate *Federal Register* notices.

This record includes the following information:

A. Supporting Documentation

(1) *Federal Register* notices consisting of:

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(a) Notice of proposed test rule on MCP and commercial hexane (51 FR 17854; May 15, 1986).

(b) Notice of final test rule for commercial hexane and methylcyclopentane (53 FR 3382; February 5, 1988).

(2) Communications consisting of:

(a) Written public comments and letters.

(b) Contract reports of telephone conversations.

B. References

(1) American Petroleum Institute (API) Letter from Martha A. Beauchamp, Director of Health & Environmental Affairs Department, to Charles Elkins, Director, Office of Toxic Substances, USEPA. (March 25, 1988).

(2) USEPA. Letter from Susan F. Vogt, Deputy Director, Office of Toxic Substances, to Martha A. Beauchamp, API. (April 6, 1988).

(3) API. Letter from Martha Beauchamp to A. E. Conroy, Director, Office of Compliance Monitoring, Office of Pesticides and Toxic Substances and to Susan F. Vogt, USEPA. (April 13, 1988).

Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection in the TSCA Public Docket Office, Rm. NE-G004, 401 M St. SW., from 8 a.m. to 4 p.m., Monday through Friday, except on legal holidays.

VII Other Regulatory Requirements

A. Executive Order 12291

EPA judged that the final test rule was not subject to the requirement of a

Regulatory Impact Analysis under Executive Order 12291. EPA has determined that the proposed modifications to the rule do not alter this determination.

This proposed amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB to EPA, and any EPA response to those comments, are included in the rulemaking record.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, (5 U.S.C. 601 *et seq.*, Pub. L. 96-354, September 19, 1980), EPA certified that the final test rule would not have a significant impact on a substantial number of small businesses. The proposed changes to the final rule will not change this determination.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in the final rule for commercial hexane under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*, Pub. L. 96-511, December 11, 1980), and has assigned OMB control number 2070-0033. The proposed changes in the definition of the test substance and the effective date will not alter information collection requirements.

List of Subjects in 40 CFR Part 799

Chemicals, Environmental protection, Hazardous substances, Laboratories, Recordkeeping and reporting requirements, Testing.

Dated: May 20, 1988.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR Part 799 be amended as follows:

PART 799—(AMENDED)

1. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2063, 2611, 2625.

2. By revising § 799.2155 (a)(2) and (d) to read as follows:

§ 799.2155 Commercial hexane.

(a) * * *

(2) The commercial hexane test substance, for purposes of this section, is a product which conforms to the specifications of ASTM D1836 and contains at least 40 liquid volume percent but no more than 55 liquid volume percent *n*-hexane and no less than 10 liquid volume percent MCP.

(d) *Effective date.* The effective date of § 799.2155 will be 44 days after publication of the final rule incorporating this amendment.

[FR Doc. 88-11981 Filed 5-26-88; 8:45 am]

BILLING CODE 6580-50-M

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